

#### Members

Sen. Joseph Harrison, Chairperson  
Sen. Thomas Weatherwax  
Sen. Allie Craycraft  
Sen. Larry Lutz  
Rep. Terry Goodin  
Rep. Thomas Kromkowski  
Rep. Larry Buell  
Rep. Richard Mangus  
Claude Davis  
Steve Meno  
William Gettings, Jr.  
Connie Lux



# PENSION MANAGEMENT OVERSIGHT COMMISSION

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Authority: IC 2-5-12-1

## MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 29, 2001  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington St.,  
Room 233  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Sen. Joseph Harrison, Chairperson; Sen. Thomas Weatherwax; Sen. Allie Craycraft; Sen. Larry Lutz; Rep. Thomas Kromkowski; Rep. Larry Buell; Rep. Richard Mangus; Steve Meno; William Gettings, Jr.; Connie Lux.

**Members Absent:** Rep. Terry Goodin; Claude Davis.

Senator Joseph Harrison, Chair, convened the meeting at 1:37 p.m. He introduced the members of the Commission and staff.

Senator Harrison introduced Ms. Mary Beth Braitman, outside counsel for the Public Employees' Retirement Fund (PERF) and the Teachers' Retirement Fund (TRF), to discuss Preliminary Draft (PD) 3523. The staff distributed a fiscal note (Exhibit A) to Commission members for PD 3523 (Exhibit A1).

### 1. PD 3523 - PERF and TRF Administrative Changes

Ms. Braitman distributed a section-by-section analysis (Exhibit B) of PD 3523. Section 1, Ms. Braitman said, adds a new rollover account to the Legislator's Defined Contribution Plan. Section 2 allows PERF and TRF to pool assets with each other and with other funds for investment purposes only. Separate accounting always is required. Section 3 allows a more expansive purchase of additional years - allows members with ten years of PERF/TRF service to purchase an additional one year for every five years. Section 4 allows a member who is eligible for a retirement benefit to suspend and take a lump sum distribution of their Annuity

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Savings Account (ASA) to purchase service in another governmental retirement plan. Section 5 adds a new rollover account to PERF and TRF. It permits PERF and TRF to accept rollovers from permissible retirement savings vehicles (IRAs, 457 plans, 403(b) plans, and other qualified plans).

Ms. Braitman said that these funds would be put into "rollover accounts," similar to but separate from the members' ASAs. The rollover funds could be invested in the alternative funds that are available for investment of the ASAs. Continuing, Ms. Braitman said that Section 6 allows PERF members to make service purchase rollovers from all permissible sources under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Section 7 allows the TRF Board to maintain dental, vision, and long-term care coverage for the retirees to purchase. Ms. Braitman said that Section 8 is the same as Section 6, only it applies to TRF. Continuing, Ms. Braitman said that Sections 9, 10, 11, and 12 allow existing service purchases to be made using a rollover from all EGTRRA-permitted sources. This section also allows purchase to be made via a direct trustee-to-trustee transfer in situations permitted under EGTRRA. Section 13, the last section of PD 3523, affects the 1977 Police Officers' and Firefighters' Fund. It allows units that previously entered to purchase service to get members to retirement by the retirement age now in effect (currently age 52). It also allows the purchase to be made via rollover or direct trustee-to-trustee transfer in situations permitted under EGTRRA.

Mr. William Gettings, Commission member, requested that both PERF and TRF add Money Market Accounts or other fixed accounts for rollover accounts. The Chair asked for disposition of PD 3523. Representative Kromkowski moved and Senator Craycraft seconded the motion to move PD 3523. The Commission voted ten to zero to recommend PD 3523 to the General Assembly.

Senator Harrison called upon Ms. Braitman to explain PD 3458. The staff distributed a fiscal note (Exhibit C) for PD 3458 (Exhibit C1).

## **2. PD 3458 - Magistrate's Pension**

Ms. Braitman said that PD 3458 provides that a magistrate serving as a full-time magistrate on July 1, 2002, may make an election to become a member of the Judges' 1985 Benefit System, effective January 1, 2003. Continuing, Ms. Braitman said that PD 3458 also provides that a person who begins serving as a full-time magistrate after June 30, 2002, is a participant in the 1985 Benefit System, effective January 1, 2003. PD 3458 also allows magistrates who are participants in the 1985 Benefit System to purchase service credit at full actuarial cost for prior service as a full-time commissioner, magistrate, or referee, or for prior service in other PERF-covered positions.

Senator Harrison called for disposition of PD 3458. Representative Kromkowski moved and Senator Weatherwax seconded the motion to recommend PD 3458. The Commission voted ten to zero to recommend PD 3458 to the General Assembly.

Senator Harrison asked Ms. Braitman to discuss PD 3444. The staff distributed a fiscal note (Exhibit D) to Commission members for PD 3444 (Exhibit D1).

## **3. PD 3444 - Judges' Cost of Living (COLA) (1985 System)**

Ms. Braitman explained that PD 3444 requires the monthly benefits payable to participants, survivors, and beneficiaries under the 1985 Benefit System of the Judges' Retirement Fund to be increased by the same percentages and under the same conditions as monthly benefits are increased for members of PERF. In response to Representative Buell's question about the application in PERF and TRF COLA bills, Ms. Braitman said that PD 3444 will control the

application, unless the COLA bill says differently. In response to a question from Commission member William Gettings about the differences between the 1977 Judges' Plan and the 1985 Judges' Plan, the Chair called upon Mr. Doug Todd, actuary for the Judges' Retirement System. Mr. Todd told the Commission that the benefits of judges hired after August 31, 1985, are tied to the salary of the position at the time of leaving the bench and will not increase if the salary of the position increases after the judge retires. He went on to say that judges who are currently retired or who were members before August 31, 1985, will continue to receive benefit increases whenever the current salary of the position the retiree held at retirement increases.

Senator Harrison recognized Nancy Vaidik, Judge of the Court of Appeals and Vice President of the Indiana Judges' Association, to comment on PD 3444. Judge Vaidik said that there is a misconception that the Judges' Plan is a Cadillac plan. She said that Indiana Judges are 36<sup>th</sup> in the nation for judges' pension amounts. Judge Vaidik said that judges have a choice about being judges and this COLA makes the Plan better.

Senator Harrison commented that PD 3444 must have the Governor's support to move forward. Representative Kromkowski said that he agreed with Senator Harrison, but he moved and Senator Lutz seconded the motion to recommend PD 3444. The Commission voted six to four to recommend PD 3444 to the General Assembly. However, Legislative Council rules require a majority vote of those appointed to a Committee or Commission to recommend legislation to the General Assembly. Because PD 3444 did not receive a majority vote (seven) of those appointed to the Commission, it did not pass.

Senator Harrison called upon Ms. Braitman to explain PD 3496. The staff distributed a fiscal note (Exhibit E) for PD 3496 (Exhibit E1) to Commission members.

#### **4. PD 3496-Indiana State Police Department (ISPD) Disability Plan**

Ms. Braitman said that PD 3496 authorizes the ISPD to establish disability expense reimbursements and disability pensions for employee beneficiaries who incur disabilities: (1) in the line of duty; and (2) not in the line of duty. She also said that it authorizes the ISPD to seek rulings from the Internal Revenue Service (IRS) as to federal tax treatment for the line-of-duty disability benefits. PD 3496 also provides for a waiver of tuition and mandatory fees at any state-supported college, university, or technical school for the child or spouse of a regular, paid ISPD police employee who has been permanently and totally disabled by a catastrophic personal injury that was sustained in the line of duty and permanently prevents the employee from performing any gainful work.

Mr. Steve Buschmann, representing the Indiana State Police Alliance (ISPA), was recognized by Senator Harrison. Mr. Buschmann told the Commission that he strongly supports the bill. He then distributed materials from the ISPA (Exhibits F, G, and H). They were: (1) an ISPA-proposed disability system; (2) a bill draft of a three-class disability system. Mr. Buschmann said that the ISPD does not support this bill draft; (3) an ISPA-proposed COLA.

Senator Harrison asked for disposition of PD 3496. Representative Kromkowski moved and Senator Craycraft seconded the motion to recommend. The Commission voted ten to zero to recommend PD 3496 to the General Assembly.

Ms. Braitman was recognized by Senator Harrison to explain PD 3512 (Exhibit I). The staff distributed a fiscal note (Exhibit I 1) for PD 3512 to Commission members.

#### **5. PD 3512 - Deferred Retirement Option Plan (DROP)**

Ms. Braitman distributed a section-by-section analysis of PD 3512 (Exhibit J). Sections one

through four modify the definition of line of duty for the purposes of lump sum and monthly survivor benefits and tie it to “accident, incident, or violence”. These sections affect the 1925 Fund, the 1937 Fund, the 1953 Fund, and the 1977 Fund. Ms. Braitman also said that the 1977 Fund Advisory Committee was running into difficulty with the current definition of in non-catastrophic situations. Section 5 establishes a temporary DROP for the 1925, 1937, 1953, and 1977 Fund retirees who become eligible before the sunset of the program (December 31, 2007).

Ms. Braitman then outlined the various components of the proposed DROP.

Eligibility: A member of the 1925, 1937, 1953, or the 1977 Fund who is eligible to retiree between January 1, 2003, and December 31, 2006, may elect to enter the DROP. The DROP may not exceed any local unit’s mandatory retirement age. A member may make only one DROP election in their lifetime.

DROP Period: The member must be in the DROP for at least one year, and must exit before December 31, 2007. The maximum DROP period is three years.

DROP Requirement: The member must commit to retire upon exiting from the DROP. The member continues to make the required contributions while in the DROP. For the 1977 Fund members, the employer’s contributions also continue.

DROP Benefit: At retirement from DROP, a member receives (a) a monthly pension that is based on service and salary in effect when the member entered the DROP, plus a lump sum or installment payment of the amount that “accrued” while the member was in the DROP; or (b) a monthly benefit that is determined based on service and salary in effect when the member retires from the DROP, with no lump sum or installment payment. (In other words, the benefit that the member would have otherwise received without entering the DROP.)

Member Who Does Not Complete DROP Period: A member who leaves for reasons other than death or disability before the member’s DROP retirement date loses the opportunity to elect a lump sum or installment payment through the DROP.

Line of Duty Death/Non-Line of Duty Death/Disability: Benefits for line-of-duty death, non-line-of-duty death, or disability are determined based on provisions of the applicable pension fund as though a member never entered the DROP.

Senator Craycraft asked about the applicability of the line-of-duty definition for off-duty public safety officers responding to an incident. Ms. Braitman said that off-duty public safety officers responding to an incident who are killed would be covered by PD 3512.

Mr. Matt Brase, the Indiana Association of Cities and Towns (IACT), said that he appreciates the Commission’s actions in this matter. He said that IACT members view the DROP as a win-win situation and will support it. Mr. Chuck Sosbe, the Indiana Professional Firefighters Union, said that he supports the DROP and the line-of-duty definition. Mr. Leo Blackwell, Fraternal Order of Police, said that he supports both provisions.

Senator Craycraft moved and Representative seconded the motion to recommend. The Commission voted ten to zero to recommend PD 3512 to the General Assembly.

## **7. Uniformed Services Employment and Reemployment Rights Act (USERRA)**

Senator Harrison asked Ms. Braitman to distribute a document (Exhibit K) addressing the Uniformed Services Employment and Reemployment Rights Act (USERRA). Ms. Braitman

briefly explained USERRA.

Representative Kromkowski raised the issue of county coroners and their participation in PERF. He cited the Winamac, Indiana, coroner who lost her membership in PERF. He said that he will introduce legislation to put county coroners in PERF. Senator Harrison expressed concern about mandating local governments to participate in PERF.

## **8. Draft Copy of Commission Final Report**

Senator Harrison told the Commission that the draft copy of the final report of the Commission which was sent to the members would be amended/updated to reflect the action taken today. Senator Craycraft moved and Senator Weatherwax seconded the motion to approve the draft copy of the final report, as amended to include today's action. The Commission voted ten to zero to adopt the draft copy of the final report, as amended.

## **9. PERF and TRF Annual Reports**

Senator Harrison introduced Dr. William E. Christopher, executive director of TRF, and Mr. E. William Butler, executive director of PERF. Dr. Christopher distributed copies (Exhibit L) of the Operations Report for the TRF for 2001. The annual reports for both TRF and PERF are required as a result of P. L. 119-2000. This legislation made both TRF and PERF independent bodies corporate and politic. The annual reports are sent to the Governor, the State Budget Committee, and the Pension Management Oversight Commission.

Dr. Christopher called attention to certain contents of the annual report: 1) the letter of conveyance, 2) the mission statement and core values, 3) the staff, and 4) the financial statements. He also mentioned the growth in TRF assets and the fact that the TRF actuarial liability decreased. Regarding fixed income, Dr. Christopher said that TRF has seven such managers, and he is looking to reduce that number to three or four. He said that many of the TRF accomplishments have been done in cooperation with PERF.

Dr. Christopher raised three issues: a) TRF members who outlive their pensions. (He said that the TRF has 44 members over 100 years of age, and seven who are over 106 years of age), b) rethink the system for COLAs and 13<sup>th</sup> checks, and c) review the long-term funding for TRF.

Mr. E. William Butler, executive director of PERF, distributed copies (Exhibit M) of the 2001 Comprehensive Annual Financial Report for PERF. Mr. Butler said that the report was in five sections. He echoed the comments of Dr. Christopher in that a number of PERF initiatives were undertaken with the TRF because both funds are in the same business. Mr. Butler called attention to pages 4, 12, and 60. Senator Weatherwax asked Mr. Butler about on-line access to member accounts. Mr. Butler said that on-line access is about four steps beyond current capabilities.

Senator Harrison thanked Commission members for their time.

Senator Harrison adjourned the meeting at 2:45 p.m.